THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.9323 of 2006

17.8.2006

Between:

Smt.Vajra, D/o.Rukmaiah
And others

… Petitioners

AND

The Principal Secretary to the Government of Andhra Pradesh,
Revenue Department (UC.II), Secretariat, Hyderabad
And others

… Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.9323 of 2006

ORDER:

This writ petition is filed by nine persons challenging the two notices dated 05.10.2005 issued by the second respondent herein advising the petitioners 1 and 6 to file applications as envisaged in G.O.Ms.No.455, dated 29.7.2002 for regularization of possession over the land in survey No.42/B situated at Guttala Begumpet Village of Serilingampally Mandal in Ranga Reddy District. Besides seeking a declaration invalidating the impugned notices issued to petitioners 1 and 6, all the petitioners also pray for a direction to the respondents to implement the Memo No.44946/ UC.II(2)/89-1 dated 19.5.1989 and Memo No.44945/UC.II(2)/89-1 dated 19.5.1989 in respect of plot Nos.8, 20, 21/1, 86 and 87 situated in survey Nos.41 to 46 and 48 of Guttala Begumpet Village by declaring that these plots are not covered by the provisions of Urban Land (Ceiling and Regulation) Act, 1976 (ULC Act, for brevity).

The petitioners 1 to 3 are owners of plot No.84, petitioners 4 and 5 are owners of plot Nos.20 and 21/1, petitioners 6 and 7 are owners of plot No.86 and petitioners 8 and 9 are owners of plot No.8. These plots are situated in survey Nos.41 and 42 of Guttala Begumpet Village. It is the case of the petitioners that various plots purchased by them are in an area called 'Kavuri Hills'. The land originally belonged to C.Rama Koteswara Rao, who sold the same to one Sarada, who in turn alienated the property in favour of Laxmi Reddy from whom the

petitioners purchased the property. Likewise, Ramakoteswara Rao sold the property to K.V.Rama Devi, who sold the same to Rama Krishna from whom the vendors of petitioners 4 and 5 purchased the property. Petitioners 6 and 7 purchased the land admeasuring 500 Sq.yards under registered sale deed from M/s.Hyderabad Steel Industries Private Limited, who in turn had purchased from two persons, namely, Usha Rani, Venkata Srinivas, whose vendors' vendor was Rama Koteswara Rao. The petitioners 8 and 9 purchased plot No.8 from Krishna Bhaskar, who had earlier purchased the property from one Chandra Suryamba. All the transactions are by registered sale deeds and initially sale by Rama Koteswara Rao in favour of the vendors' vendors of the petitioners are in April, August and November 1999, when the land was within the purview of ULC Act.

It is the case of the petitioners that the land purchased by the petitioners does not fall within the limits of Hyderabad Urban Agglomeration, that the master plan was extended to Guttala Begumpet Village by the orders of the Government in G.O.Ms.No.399, dated 22.6.1990 and that as ULC Act came into force on 17.2.1976 the Act cannot be made applicable. A reference is also made to the proceedings before this Court in W.P.No.898 of 1999 and W.A.No.315 of 1999 wherein this Court held that the lands falling within the peripheral area, as on the date of coming into force of ULC Act with effect from 17.2.1976 but later included in the master plan, are exempted from the application of ULC Act and, therefore, building permission cannot be withheld. The petitioners contend that they are also similarly situated and, therefore, there is no necessity for them to seek regularization/ allotment as per the guidelines issued in G.O.Ms.No.455, dated 29.7.2002. Be it noted that so as to allot/regularize surplus vacant land under ULC Act, which vested in the Government, in favour of the occupants of such land either under agreement of sale or sale deed executed pursuant to coming into force of ULC Act, the Government introduced a scheme in G.O.Ms.No.455 dated 29.7.2002 by collecting land value as stipulated therein.

At the stage of admission, a detailed counter affidavit is filed by the Special Deputy Collector in the Office of the second respondent. The gist of the same is as follows. One Smt.Chandra Raja Kumari filed a declaration under Section 6 of ULC Act being C.C.No.F1/0327/76 declaring the land owned by her in survey Nos.66 (part), 68 (part) and 69 of Yousufguda Village, survey No.42 of Guttala Begumpet Village and survey No.100 of Miyapur Village. After

processing the same, the second respondent determined the excess vacant land of 7162.62 Sq.mts. in survey No.42 of Guttala Begumpet Village and an extent of 4052.02 Sq.mts. in survey No.100 of Miyapur Village, which was confirmed by proceedings dated 26.6.1982 under Section 8(2) of ULC Act. In the meanwhile, the Government issued Memo No.139040/UC.II88-4 dated 18.4.1989 to the effect that Guttala Begumpet Village falls in peripheral area and the benefit of G.O.Ms.No.733 dated 31.10.1988 has to be extended to it. However, subsequently, the Government issued another memo No.18927/UC.II(2)/97-3, dated 20.11.1997 withdrawing the G.O.Ms.No.733 dated 31.10.1988 and, therefore, the land is not exempted from ULC Act. In view of this, the declaration filed by Chandra Raja Kumari was finalized and notification under Section 10(1) and declaration under Section 10(3) of ULC Act was issued on 20.7.2005 in A.P.Gazette dated 28.7.2005. While the matters are pending before the second respondent, the declarant sold the land as house plots to various individuals by converting the nature of land to non-agriculture, some of the purchasers also filed application under G.O.Ms.No.455 for regularization and availed the benefit. In view of the withdrawal of memo dated 18.4.1989 by subsequent memo dated 20.11.1997, Guttala Begumpet village falls within the core area and, therefore, there is no illegality in issuing the impugned notice.

Learned Counsel for the petitioners vehemently contends that the land in Guttala Begumpet falls within the peripheral area and, therefore, it is exempted from the provisions of ULC Act as per the Orders of the Government in G.O.Ms.No.733, dated 31.10.1988 and G.O.Ms.No.451, dated 07.5.1987, which is automatic as held by this Court in **M.V.S.Satyanarayana and another v Government of A.P.**[1] and, therefore, the impugned notice is illegal and unsustainable. He also relies on the judgment of this Court delivered by a Division Bench of this Court, to which I was a Member, in W.A.No.315 of 1999 in support of the said contention.

Learned Assistant Government Pleader vehemently contends that Guttala Begumpet Village falls within the core area of Hyderabad Urban Agglomeration and, therefore, the issue of impugned notice advising the petitioners to file application for regularization is justified. He also opposed the writ petition contending that the impugned order is only by way of a notice and the petitioners can always raise all these grounds before the second respondent by filing an application, which can be considered by the second respondent while sending a report to the first respondent for passing appropriate orders under

G.O.Ms.No.455 dated 29.7.2002.

This Court has been taken through various documents in support of the contention that the land purchased by the petitioners in Guttala Begumpet falls within the peripheral area and, therefore, there is no necessity for the petitioners to file applications under G.O.Ms.No.455. It is also the case of the petitioners that before purchasing the land, they approached the authorities for clarification when they were informed that the land is not covered by the provisions of ULC Act, but as rightly pointed out by the learned Assistant Government Pleader for Revenue (Assignment) that the authority for allotting/regularizing the land under Section 23 of ULC Act to a person, who is in occupation of the land in contravention of the provisions of ULC Act, is the Government. Therefore, as at present, there is no proper consideration of the issue by the Government. According to the learned Assistant Government Pleader the memo dated 18.4.1989 declaring Guttala Begumpet Village to be in peripheral area, was subsequently withdrawn by subsequent memo dated 20.11.1997. Therefore, the Government would be in best position to deal with the matter. It would not be proper for this Court to go into this aspect of the matter especially when the impugned order is in the nature of a notice. It is too well settled that the Court of judicial review cannot interfere at the stage of notice even in a case where such notice is issued without jurisdiction. Therefore, this Court is of considered opinion that petitioners may file a detailed representation before the second respondent, within a period of two weeks from the date of receipt of a copy of this order, enclosing all the documents showing whether the land purchased by them is exempted from the provisions of ULC Act. As and when such representation is made, the second respondent shall consider the same and send an appropriate report to the first respondent (duly furnishing a copy of the same to the petitioners), who are alone entitled to take a final decision.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

(**V.V.S.RAO, J**)

August 17, 2006.
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[1] 2004(1) ALD 256